THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND

THE HON'BLE MR JUSTICE M. VENKATESWARA REDDY

WRIT PETITION No: 6461 of 2006

-

Date: 24.04.2006

-

Between:

The Principal Secretary to Government,

Finance (Works & Projects) Department,

Secretariat, Hyderabad & another.

... PETITIONER.

AND

Sri M.A. Majeed.

... RESPONDENT.

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND

THE HON'BLE MR JUSTICE M. VENKATESWARA REDDY

WRIT PETITION No.6461 of 2006

ORDER:- (PER THE HONOURABLE JC,J)

This writ petition is filed with a prayer as follows:

> "… … Hon'ble Court may be pleased to issue a writ, order or a direction, more particularly one in the nature of writ of Certiorari, calling for the records relating to the orders of the A.P. Administrative Tribunal, passed inO.A.No.5261 of 2004, dated 28.10.2005, as being unreasonable, erroneous and contrary to law and quash the same and pass such further or other orders as deem fit and proper."

The respondent herein while working as Divisional Accounts Officer at Sangareddy was superannuated. It appears that there was a dispute about the actual date of birth of the respondent. The Government in G.O.Ms.No.225, Finance and Planning Department, dated 27.08.1991, altered the date of birth of the respondent herein from 30.10.1927 to 19.10.1931. Aggrieved by one of the conditions in the said G.O., in not treating the interregnum period between the actual date of retirement and the notional date of retirement as on duty, the respondent approached the Administrative Tribunal in O.A.No.988 of 1993. The same was dismissed.

Notwithstanding such dismissal, the State considered the claim of the respondent and issued one more G.O.Ms.No.182, Finance and Planning Department, dated 14.08.1998, giving the benefit of treating the abovementioned period as 'partly on duty'. Not satisfied with the partial benefit, the respondent herein made a further representation to the Government relying upon the various orders of the Government where in similar situations the benefit was given to various officers. However, the said representation was rejected by the Government. Therefore, the respondent filed O.A.No.5261 of 2004 challenging the second rejection order dated 02.04.2004. The Tribunal allowed the said O.A. Hence, the present writ petition.

The Tribunal found that the plea of the respondent herein that in similar cases of three other officers, named in the order of the Tribunal, their date of birth was accepted as correct, and consequential benefits were given to them, but the said benefit was not extended to him, which in substance would be arbitrary.

The case demonstrates the arbitrariness of the State on every stage. Initially, though the State decided to alter the date of birth of the respondent herein, decided not to treat the interregnum period as time spent by him on duty, and the respondent unsuccessfully challenged it. Notwithstanding the failure of the respondent, which in turn resulted a judicial finding that the respondent is not entitled for such a treatment, the Government thought it fit to confer such a right on the respondent. While coming to the conclusion, the Government thought it fit to confer partial right only, while in similar cases, it decided to give entire benefit of the altered date of birth.

From the above facts, there cannot be any better demonstration of the arbitrariness of the State. We do not see any reason to interfere with the order under challenge.

The writ petition is, therefore, dismissed. No costs.

_____

J.CHELAMESWAR, J

_____

M. VENKATESWARA REDDY, J

Date: 24.04.2006

ES